

**OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management**

MEMORANDUM 95-28

March 30, 1995

TO : All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM : William G. Stack, Associate General Counsel

SUBJECT: Revised Procedures for Cases Involving Beverly Health and
Rehabilitation Services, Inc. (formerly Beverly California Corporation)

The General Counsel and Beverly Health and Rehabilitation Services, Inc., (formerly Beverly California Corporation, hereafter Beverly) have entered into a "standstill" agreement (copy attached) that will permit cases involving Beverly that currently are not part of the consolidated litigation between the parties to be handled by the Regional Offices on an individual basis. Under Memorandum OM 89-82, dated August 16, 1989 and its predecessor, Memorandum OM 87-50, dated July 30, 1987, merit unfair labor practice cases involving any facility of Beverly Enterprises, Inc., or its subsidiaries or affiliates, were transferred to and continued in Region 6 for consolidated litigation. Pursuant to the General Counsel's litigation strategy for these cases, three consolidated proceedings have been initiated in the Pittsburgh Regional Office. The current status of that litigation is set forth in the agreement, attached.

The "standstill" agreement was negotiated in order to permit the efficient and timely resolution or litigation of cases involving Beverly Enterprises and thereby afford the parties and persons involved expeditious relief while avoiding any prejudice to the litigation positions of the parties in the pending cases. Accordingly, the procedures established in Memorandum OM 89-82, and Memorandum OM 87-50 are revoked and these cases should now be processed on the basis of their particular facts, in accordance with the Board's normal procedures for handling unfair labor practice cases.

The General Counsel adheres to the view that a nationwide remedy is appropriate, and that the enhanced record in Beverly II and Beverly III is more than sufficient to justify its issuance by the Board and enforcement by a court of appeals. In the meantime, however, while the cases are pending Revised Procedures for Cases Involving Beverly Health and

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before the Board and the courts, it is important that Regional Directors, in determining whether informal or formal settlements should be sought, with or without nonadmission clauses, or whether a non-Board adjustment should be approved in new or pending Beverly cases arising in their Regions, should be aware of actions taken by other Regions. Accordingly, Regional Director Kobell should continue to receive copies of all complaints involving Beverly upon issuance, and you should discuss settlement prospects with him, prior to finalizing your Region's position concerning the type of settlement to be sought in all meritorious cases, as well as the propriety of a nonadmission clause. Regional Director Kobell will also be responsible for monitoring the type and volume of meritorious cases in order to determine whether continuation of the "standstill" agreement is appropriate.

Please consult with your Assistant General Counsel if there is a dispute regarding the appropriate course of case processing or if you have any questions concerning the foregoing.

W. G. S.

Attachment

cc: NLRBU

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